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[July,

authority of the commissioner was *very brief* according to this! The Vansant case ignores § 472 entirely and plants itself merely upon § 437a and its amendments. It does seem, with all respect to the court, that § 472, as amended, *did* confer authority on the commissioners to make such separate assessments, from 1889-90 to 1906 certainly, and perhaps to the present day, without additional legislation.

To recapitulate upon this point, the Vansant case was undoubtedly right in the construction it placed upon § 437a and its amendments, but the writer must confess to an inability to see why § 472, as amended in 1889-90, was not even referred to, as it seems to have been authority for such an assessment by commissioners of the revenue as was under consideration, from 1889-90 continuously to 1908. At least if it was not, an explanation of why it was not would be gratefully received. The principal case, it is true, proceeds upon the same assumption, but, while it notices § 472, it gives no intimation of why it did not apply in the Vansant case. It may seem density on the part of the writer, but it is an honest doubt that asks enlightenment, for here we have § 472, as amended 1889-90, authorizing and commanding commissioners of the revenue to assess separate timber interests to the true owners, and in 1903 this section was repealed by an act afterwards held (1906) to have been invalid, so that, as declared in the principal case, it was continuously in force at least until the legislature, in 1906, inserted a similar provision in § 437a. Section 437a was reamended within a month as it was before, leaving out this provision, probably because the legislature recognized § 472 as still in force, and yet it is declared in the Vansant case and the principal case that no authority was ever conferred upon a commissioner of the revenue to make any separate assessment of standing trees until this amendment of § 437a, which continued in force for less than a month, and that all such authority then terminated until the act of March 12th, 1908, which again provided for such assessment.

J. F. M.

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PEOPLE'S PLEASURE PARK CO. v. ROHLEDER.

March 11, 1909.

[63 S. E. 981.]

On rehearing. Denied.

For former opinion, see 61 S. E. 794, 14 Va. Law Reg. 548.

BUCHANAN, J. A decree was rendered in this cause on the 11th day of June, 1908, which upon a petition to rehear was set aside.

Upon a careful consideration of the case upon the rehearing we find no occasion to depart from the conclusion reached upon the original hearing.

For the reasons given, and upon the authorities cited, in the opinion then delivered, the decree entered at that time is approved, and will be adhered to.